



10/Response
7-26-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Yasushi KANEKO et al.**

Serial Number: **09/887,092**

Group Art Unit: **2871**

Filed: **June 25, 2001**

Examiner: **Dung T. Nguyen**

For: **LIQUID CRYSTAL SHUTTER AND METHOD OF DRIVING THE SAME**

RESPONSE TO RESTRICTION REQUIREMENT
AND
RESPONSE TO ASSERTION OF NON-RESPONSIVENESS

Commissioner for Patents
Washington, D.C. 20231

Date: **July 17, 2002**

Sir:

In response to the Office Action dated June 18, 2002, Applicants submit the following remarks.

The present application is subject to a restriction requirement because the Examiner asserts that in response to an action on the merits, Applicants improperly canceled claims directed to a device and substituted claims directed to a method.

Applicants submit that all claims, as preliminarily amended on June 25, 2001, and as amended on February 28, 2002 in response to the Office Action of November 30, 2001, were directed to a method, and not to a device; original device claims 1-3 having been canceled in the Preliminary Amendment of June 25, 2001. Applicants submit that replacing method claims 4-18 with new method claims 19-24 was proper, and Applicants respectfully submit that the restriction requirement is improper. Applicants request withdrawal of the Restriction Requirement.

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HISTORY

The present application is a divisional of Serial Number 08/981,654, and was filed on June 25, 2001. Upon filing, claims 1-18 were pending in the application. Claims 1-3 were directed to a liquid crystal shutter, and claims 4-18 were directed to a method for driving the liquid crystal shutter.

Coincident with the initial filing of the application, a Preliminary Amendment was filed that canceled device claims 1-3, directed to the liquid crystal shutter, but kept method claims 4-18, directed to a method for driving a liquid crystal shutter. Applicants note that the method claims 4-18 were initially dependent from device claims 1-3. However, in the Preliminary Amendment, claims 4, 8, 9, 13, 14 and 18 were amended to independent form and to include a description of the device intended to be acted upon by the method. Applicants submit that the description of the device became the preamble of these claims, but the preamble in no way made these claims into device claims. Furthermore, Claims 5-7, 10-12 and 15-17 clearly remained method claims both before and after the Preliminary Amendment.

Applicants received an Office Action dated November 30, 2001, which indicated that the Examiner was not certain whether the claims were directed to a device or a method.

In response to the Office Action of November 30, 2001, Applicants filed a clarifying Amendment dated April 1, 2002, which replaced method claims 4-18 with new method claims 19-24.

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CONCLUSION

Applicants submit that all claims as preliminarily amended on June 25, 2001, were directed to a method, and not to a device; the device claims 1-3 having been canceled in the Preliminary Amendment. Applicants submit that replacing method claims 4-18 with new method claims 19-24 was proper, and Applicants respectfully submit that the restriction requirement is improper. Applicants request withdrawal of the Restriction Requirement.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. **01-2340**.

Respectfully submitted,

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